

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE**

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* In re: Tobie L. Wallace-Clegg ,	* BK #06-10479-MWV
*	*
* Debtor	* Chapter 13
*	*

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**MOTION FOR AUTHORIZATION TO SELL PERSONAL RESIDENCE**

NOW COMES the Debtor in the above captioned matter, Tobie L. Wallace-Clegg, by and through Debtor's attorney, Van De Water Law Offices, P.L.L.C., and hereby respectfully requests this Honorable Court grant Debtor authorization to sell her personal residence.

1. Debtor filed a voluntary petition under Chapter 13 on 5/3/2006.
2. Debtor desires to sell her personal residence located at 4 Topsfield Drive, Nashua, County of Hillsborough NH 03062- for the sum of \$\$214,165.00 to 5Summit5 Realty, LLC (hereinafter called "Buyer"). A copy of the Purchase and Sales Agreement is attached hereto as Exhibit A, and is incorporated herein by reference as if fully set forth.
3. All contingencies under the Purchase and Sales Agreement affecting transfer of title have been met.
4. The closing is scheduled for October 15, 2006, subject only to Debtor obtaining the necessary authorization from this Honorable Court to sell the Debtor's residence.
5. The total indebtedness regarding the subject property is \$ \$201,486.00 plus accrued post-petition interest and real estate taxes.
6. All outstanding encumbrances, including without limitation, mortgage(s) and real estate taxes, and Debtor's costs of closing, are to paid from the sale, with the balance paid to Debtor.
7. The remaining proceeds from the sale are property of the Debtor and scheduled and claimed as exempt under NH RSA 480:1 as Debtor's homestead exemption. .

8. To the extent the sales price is below the Debtor's original estimate of value for the Debtor's residence, the sales value accurately reflects the property's actual value in its current condition, after exhausting reasonable efforts to market the property.

Respectfully submitted,  
Tobie L. Wallace-Clegg  
By Debtor's attorney,  
Van De Water Law Offices, PLLC.

Dated: September 6, 2006

/s/ Marc L. Van De Water  
Marc L. Van De Water, Esquire  
BNH #01769  
44 Albin Road  
Bow, NH 03304  
(603) 647-5444

**PURCHASE AND SALES AGREEMENT AND DEPOSIT RECEIPT**  
**New Hampshire Association of REALTORS® Standard Form**



1. **THIS AGREEMENT** made this 13th day of June, 20 06 between  
 of 6 Topsfield Drive, City Nashua County of Hillsborough ("SELLER")  
 State NH Zip 03062 and 5 Summit 5 Realty, LLC ("BUYER")  
 of 7 Colby Court, Suite 202, City Bedford County of Hillsborough,  
 State NH Zip 03110.

2. **WITNESSETH:** That SELLER agrees to sell and convey, and BUYER agrees to buy certain real estate located in City/Town  
 of Nashua known as or described as 6 Topsfield Drive, Nashua, NH

County Hillsborough Book 7321 Page 1287 Date 9/14/04 ("PROPERTY").

3. The **SELLING PRICE** is Two Hundred Fourteen Thousand One Hundred Sixty-Five and 00/100 Dollars \$ 214,165.00.  
 DEPOSIT, receipt of which is hereby acknowledged in the form of personal check, is to  
 be held in an escrow account by Capital Title ("ESCROW AGENT"), in the sum of \$ 100.00.  
 ADDITIONAL DEPOSIT will be paid on or before n/a, in the sum of \$ n/a.  
 CASH, CERTIFIED CHECK OR BANK DRAFT will be paid on the date of transfer of title in the sum of \$ 214,165.00.

4. **DEED:** Marketable title shall be conveyed by a quitclaim deed, and shall be free and  
 clear of all encumbrances except usual public utilities serving the PROPERTY.

5. **TRANSFER OF TITLE:** On or before October 15, 2006 at TBD or  
 some other place of mutual consent as agreed to in writing. WPS

6. **POSSESSION:** Full possession and occupancy of the premises with all keys shall be given upon the transfer of title free of  
 all tenants and occupant's personal property and encumbrances except as herein stated. Said premises to be then in the  
 same condition in which they now are, reasonable wear and tear excepted. SELLER agrees that the premises will be  
 delivered to BUYER free of all debris and in "broom clean" condition.  
 Exceptions: none

7. **AGENCY:** The undersigned SELLER(S) and BUYER(S) understand that n/a  
 ("SELLER'S AGENCY") represents SELLER, and n/a  
 represents n/a in this transaction.

8. **INSURANCE:** The buildings on said premises shall, until full performance of this Agreement, be kept insured against fire, with  
 extended coverage by SELLER. In case of loss, all sums recoverable from said insurance shall be paid or assigned, on delivery  
 of deed, to BUYER, unless the premises shall previously have been restored to their former condition by SELLER; or, at the  
 option of BUYER, this Agreement may be rescinded and the DEPOSIT refunded if any such loss exceeds \$ 10,000.00.

9. **TITLE:** If upon examination of title it is found that the title is not marketable, SELLER shall have a reasonable time, not to  
 exceed thirty (30) days from the date of notification of defect (unless otherwise agreed to in writing), to remedy such defect.  
 Should SELLER be unable to provide marketable title within said thirty (30) days, BUYER may rescind this Agreement at  
 BUYER'S sole option, with full deposit being refunded to BUYER and all parties being released from any further obligations  
 hereunder. SELLER hereby agrees to make a good faith effort to correct the title defect within the thirty (30) day period  
 above prescribed once notification of such defect is received. The cost of examination of the title shall be borne by BUYER.

SELLER(S) INITIALS TW

BUYER(S) INITIALS WPS

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**10. TAXES,** condo fees, special assessments, rents, water and sewage bills and fuel in storage shall be prorated as of time and date of closing or \_\_\_\_\_ on date of closing.

**11. PROPERTY INCLUDED:** All Fixtures \_\_\_\_\_ attached within the home.

**12. In compliance with the requirements of RSA 477:4-a, the following information is provided to BUYER relative to Radon Gas and Lead Paint:**

**RADON GAS:** Radon gas, the product of decay of radioactive materials in rock may be found in some areas of New Hampshire. This gas may pass into a structure through the ground or through water from a deep well. Testing can establish its presence and equipment is available to remove it from the air or water.

**LEAD PAINT:** Before 1978, paint containing lead may have been used in structures. The presence of flaking lead paint can present a serious health hazard, especially to young children and pregnant women. Tests are available to determine whether lead is present.

Disclosure Required ☒ YES ☐ NO

**BUYER ACKNOWLEDGES PRIOR RECEIPT OF SELLER PROPERTY INFORMATION REPORT ATTACHED HERETO AND SIGNIFIES BY INITIALING HERE:** \_\_\_\_\_

**13. DUE DILIGENCE:** The BUYER is encouraged to seek information from professionals normally engaged in the business regarding any specific issue of concern. SELLER'S AGENCY makes no warranties or representations regarding the condition, permitted use or value of the SELLER'S real or personal property. This Agreement is contingent upon the following inspections, with results being satisfactory to the BUYER:

TYPE OF INSPECTION:	YES	NO	RESULTS TO SELLER	TYPE OF INSPECTION:	YES	NO	RESULTS TO SELLER
a. General Building	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days	f. Lead Paint	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days
b. Sewage Disposal	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days	g. Pests	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days
c. Water Quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days	h. Hazardous Waste	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days
d. Radon Air Quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days	i. _____	<input type="checkbox"/>	<input type="checkbox"/>	within _____ days
e. Radon Water Quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	within _____ days	j. _____	<input type="checkbox"/>	<input type="checkbox"/>	within _____ days

The use of days is intended to mean calendar days from the effective date of this Agreement. All inspections will be done by professionals normally engaged in the business, to be chosen and paid for by BUYER. If BUYER does not notify SELLER that the results of an inspection are unsatisfactory within the time period set forth above, the contingency is waived by BUYER. TIME IS OF THE ESSENCE. If the results of any inspection specified herein reveal significant issues or defects, which were not previously disclosed to BUYER, then:

(a) SELLER shall have the option of repairing or remedying the unsatisfactory condition(s) prior to transfer of title, so long as BUYER and SELLER both agree on the method of repair or remedy; or

(b) if SELLER is unwilling or unable to repair or remedy the unsatisfactory condition(s) or BUYER and SELLER cannot reach agreement with respect to the method of repair or remedy, then this Agreement shall be null and void, and all deposits will be returned to BUYER in accordance with the procedures required by the New Hampshire Real Estate Practice Act (N.H. RSA 331-A:13); or

(c) BUYER may terminate this Agreement in writing and all deposits will be returned to BUYER in accordance with the procedures required by the New Hampshire Real Estate Practice Act (N.H. RSA 331-A:13).

SELLER(S) INITIALS TW

BUYER(S) INITIALS JP

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Notification in writing of SELLER'S intent to repair or remedy should be delivered to BUYER or BUYER'S Agent within five (5) days of receipt by SELLER of notification of unsatisfactory condition(s). In the absence of inspection mentioned above, BUYER is relying upon BUYER'S own opinion as to the condition of the PROPERTY.

**BUYER HEREBY ELECTS TO WAIVE THE RIGHT TO ALL INSPECTIONS AND SIGNIFIES BY INITIALING HERE:** \_\_\_\_\_

This Agreement is contingent upon BUYER'S review of the following:

	YES	NO		YES	NO
a. Restrictive Covenants of Record	<input type="checkbox"/>	<input checked="" type="checkbox"/>	d. Condominium documentation per N.H. RSA 356-B:58	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Easements of Record/Deed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	e. Co-op/PUD/Association Documents	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Park Rules and Regulations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	f. Availability of Property/Casualty Insurance	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If such review is unsatisfactory, BUYER must notify SELLER in writing within n/a days from the effective date of the Agreement failing which such contingency shall lapse.

**14. LIQUIDATED DAMAGES:** If BUYER shall default in the performance of their obligation under this Agreement, the amount of the deposit may, at the option of SELLER, become the property of SELLER as reasonable liquidated damages. In the event of any dispute relative to the deposit monies held in escrow, the **ESCROW AGENT** may, in its sole discretion, pay said deposit monies into the Clerk of Court of proper jurisdiction in an Action of Interpleader, providing each party with notice thereof at the address recited herein, and thereupon the **ESCROW AGENT** shall be discharged from its obligations as recited therein and each party to this Agreement shall thereafter hold the **ESCROW AGENT** harmless in such capacity. Both parties hereto agree that the **ESCROW AGENT** may deduct the cost of bringing such Interpleader action from the deposit monies held in escrow prior to the forwarding of same to the Clerk of such court.

**15. PRIOR STATEMENTS:** Any verbal representation, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

**16. FINANCING:** This Agreement ( ☐ is ) ( ☒ is not ) contingent upon BUYER obtaining financing under the following terms:

AMOUNT n/a TERM/YEARS n/a RATE n/a MORTGAGE TYPE n/a

For the purposes of this Agreement, financing is to be demonstrated by a conditional loan commitment letter, which states that BUYER is creditworthy, has been approved and that the lender shall make the loan in a timely manner at the Closing on specified customary conditions for a loan of the type specified above. BUYER is responsible to resolve all conditions included in the loan commitment by the Closing date.

The existence of conditions in the loan commitment will not extend either the Financing Deadline described below or the closing date.

BUYER hereby authorizes, directs and instructs its lender to communicate the status of BUYER'S financing and the satisfaction of lender's specified conditions to SELLER and SELLER'S/BUYER'S AGENCY.

TIME IS OF THE ESSENCE in the observance of all deadlines set forth within this financing contingency.

SELLER(S) INITIALS       *TS*      

BUYER(S) INITIALS       *WB*

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**17. ADDITIONAL PROVISIONS:**

none

**18. EFFECTIVE DATE:** This is a binding contract and the effective date is when signed and dated, whether by electronic transfer or original, and all changes initialed and dated, by SELLER and BUYER.

Each party is to receive a fully executed duplicate original of this Agreement. This Agreement shall be binding upon the heirs, executors, administrators and assigns of both parties.

**PRIOR TO EXECUTION, IF NOT FULLY UNDERSTOOD, PARTIES ARE ADVISED TO CONTACT AN ATTORNEY.**

BUYER 5Summit5 Realty, LLC 8/13/06 / DATE TIME BUYER DATE TIME

ADDRESS 7 Colby Court, Suite 202 ADDRESS

CITY / STATE / ZIP Bedford, NH 03110 CITY / STATE / ZIP

SELLER accepts the offer and agrees to deliver the above-described PROPERTY at the price and upon the terms and conditions set forth.

SELLER Tobie Wallace-Clegg 7-10-06 / DATE TIME SELLER DATE TIME

ADDRESS 6 Topsfield Drive ADDRESS

CITY / STATE / ZIP Nashua, NH 03062 CITY / STATE / ZIP